

NATURAL RESOURCES COMMISSION

Meeting Minutes

March 26, 2007

Pursuant to the notice duly filed with the Town Clerk, the meeting of the Natural Resources Commission was held in the First Floor Meeting Room, 141 Keyes Road, Concord, MA at 7:00 p.m. on Monday, March 26, 2007. The following Commissioners were present: Chair, Paul Feshbach-Meriney; Alexander Easterday; Montgomery Lovejoy; Jamie Bemis; and Steve Verrill. Delia Kaye, Natural Resources Administrator; Katie Holden, Natural Resources Assistant Administrator; and Cynthia Gray, Natural Resources Administrative Assistant were also present.

NEW APPLICATIONS:

OVERALL – 404 Monument Street / NOI-DEP File # 137-921:

Markus Pinney, Land Use & Environmental Consultant, James E. Overall III, property owner, Jim Estes, Principal Architect, and abutters appeared. The project involves demolishing of a portion of an existing residential structure; relocating the remaining core residential structure; constructing additions to the residential structure; removing a swimming pool; installing a septic system, and associated landscaping located within the 200-foot Riverfront Area of the Concord River, 100 feet of Bordering Vegetated Wetlands, and Estimated Habitat of Rare Wildlife.

Markus Pinney stated the Board of Health and Historical District Commission (HDC) approved the project. The project was also approved by the Natural Heritage and Endangered Species Program. Markus Pinney reviewed a Supplemental Narrative to the original Notice of Intent.

Delia Kaye, Natural Resources Administrator, requested the amount of alteration in the Riverfront Area which is necessary to determine if the project meets the performance standards and to issue a permit. After discussion, Mr. Pinney agreed to provide this information.

The Commission asked if the structure could be located farther away from the River than the existing footprint.

Mr. Overall discussed the proposed house reorientation and stated it will open up the view to the barn and have more balance between the two adjacent properties because the adjacent house at 412 Monument Street added an addition closer to his house. Also, the HDC presented concerns with the existing location and this represents the third plan proposed to the HDC (which they approved).

Jamie Bemis asked whether or not the underground bomb shelter in its entirety would be removed. She requested that the plan be amended and a notation made relative the underground bomb shelter "TO BE REMOVED". Markus Pinney stated Delia Kaye had requested this and revised plans would be provided. The Applicant further stated that the pool would be completely removed and replaced with a new septic system. An upland conservation seed mix is proposed over the system to create a low rough meadow to match with the abutting neighbor's field.

The Applicant proposes to remove Asiatic bittersweet growing along the stone wall by cut & dab of Rodeo herbicide each month for the first year. No replantings are proposed. A 3-year monitoring plan will be provided to the NRC (a Special Condition of the Order of Conditions).

Alexander Easterday proposed to continue monitoring every six months for three years. If desired, the Applicant could request a Partial Certificate of Compliance for work that had been completed once construction was complete.

Delia Kaye raised an administrative issue as the project would not be starting until next year, there wouldn't be a full 3 years of monitoring conducted under this Order of Conditions. There was concern of the possibility that the Asiatic bittersweet would grow back. The Applicant agreed to rid the site of invasives and conduct a full 3 years of monitoring.

Delia Kaye asked about proposed new plantings. Mr. Overall responded that crabapple trees would probably be the flowering trees of choice. After further discussion, Mr. Pinney agreed that prior to the installation of the landscape plan, a Planting Plan would be submitted for review and approval prior to construction. Delia Kaye also requested that Mr. Pinney identify the stockpiling area (soil, construction materials) on the plan.

Jamie Bemis commended the Applicant for the proposed invasives removal and for consideration of neighbor as part of the design.

This hearing was continued to the April 4th meeting in order to give the Commission time to review the Supplemental Narrative and for revised information to be submitted.

CPW – Townwide / NOI-DEP File #137-924:

Delia Kaye, Natural Resources Administrator, presented on behalf of the Concord Public Works (CPW). Dick Fowler, CPW, appeared. CPW, in conjunction with DNR staff and its subcommittees, will coordinate efforts on minor invasive species control projects on Town lands. Work on Bank shall be limited to 100 linear feet per project. Invasive species control within areas of Bordering Vegetated Wetland shall be limited to 500 square feet per project. Invasive species control within areas of Bordering Land Subject to Flooding shall be limited to 5,000 square feet per project. Invasive species control within areas of Riverfront Areas shall be limited to 5,000 square feet per project, and invasive species control within the buffer zone to Bank and Bordering Vegetated Wetland shall be limited to ½ acre per project. Both departments will abide by MACC, NEWF, and Nature Conservancy control guidelines. Both departments will coordinate with adjacent landowners, when appropriate. Delia Kaye stated CPW staff is knowledgeable in invasive species.

Monty Lovejoy supported this streamlined process.

Paul Feshbach-Meriney asked if input was received from DEP. Ms. Kaye stated DNR staff would report on any comments from DEP at the next meeting.

No herbicide spraying is proposed. Invasives would be removed by hand. Bittersweet and others would be cut and dabbed with Rodeo or Triclopyr. Site location maps would be provided and a plan for review and approval including how species are proposed to be controlled, monitored, and any restoration plantings if needed, and erosion controls. No heavy equipment would be used for projects.

Paul Feshbach-Meriney indicated that the Commission was very receptive to this project.

The hearing was continued to the April 18th meeting at which time the Commission expects to close and issue an Order of Conditions.

EXTENSION PERMIT REQUESTS

GOLDMAN – 263 GREAT MEADOW ROAD – DEP File #137-648

Jerry Smith, Aquatic Control Technology Inc., appeared on behalf of Dr. Goldman. The original Order of Conditions was granted in 2001 with Extensions issued thereafter. Jerry Smith provided an overview and management history outline to the Commissioners. Dr. Goldman owns both Borden and Goldman pond. In the mid 1990s, the ponds were severely infested with water chestnut. These shallow ponds are 40-45 years old with a depth of three feet or less.

Jerry Smith stated he will be meeting with Dr. Goldman in May 2007 to discuss revisions to the management plan. Carp are in the pond. Work could occur this year under the existing Order of Conditions.

The Commission suggested that updated information is needed on the pond consisting of review by Natural Heritage, pond maintenance (with more extensive sampling), and documented wildlife together with goals of the Applicant.

The Commission requested the Applicant withdraw the Extension request. A new Notice of Intent will be filed for future work. Mr. Smith stated that he would review this request with this Applicant and that the Applicant would likely be in favor of this request.

DNR staff created a database of all pond related filings and will present this at the next meeting.

CLOSE HEARING/ISSUE PERMITS:

ALEY – 122 Upland Road – NOI - DEP File #137-912

Alexander Easterday moved to close the hearing. Montgomery Lovejoy seconded. All so voted. Alexander Easterday moved to approve the Findings A & B. Montgomery Lovejoy seconded. All so voted. Alexander Easterday moved to issue an Order of Conditions with special conditions #18-38. Jamie Bemis seconded. All so voted.

LABADINI – 154 Southfield Road – NOI - DEP File #137-914

Montgomery Lovejoy moved to close the hearing. Alexander Easterday seconded. All so voted. Montgomery Lovejoy moved to approve Findings 1, 2 and 3. Steve Verrill seconded. All so voted. Montgomery Lovejoy moved to issue an Order of Conditions with special conditions #18-37. Jamie Bemis seconded. All so voted.

MERIDIAN CONTRACTING, LTD – 38 Shore Drive – NOI - DEP File #137-910

Alexander Easterday moved to close the hearing. Jamie Bemis seconded. All so voted. Alexander Easterday moved to approve the Findings. Jamie Bemis seconded. All so voted. Alexander Easterday moved to issue an Order of Conditions with special conditions #18-37. Jamie Bemis seconded. All so voted.

SIMPSON – 554 Barretts Mill Road – NOI - DEP File #137-913

Alexander Easterday moved to close the hearing. Jamie Bemis seconded. All so voted. Alexander Easterday moved to issue an Order of Conditions with special conditions #18-39. Jamie Bemis seconded. All so voted.

NEW CASTLE HOLDINGS, LLC – 48 Elm Street – NOI - DEP File #137-915

Montgomery Lovejoy moved to close the hearing. Jamie Bemis seconded. All so voted. Montgomery Lovejoy moved to issue an Order of Conditions with special conditions #18-39. Jamie Bemis seconded. All so voted.

GRANT – 198 Southfield Road – NOI - DEP File #137-917

Alexander Easterday moved to close the hearing. Montgomery Lovejoy seconded. All so voted. Alexander Easterday moved to approve Findings A and B. Jamie Bemis seconded. All so voted. Alexander Easterday moved to issue an Order of Conditions with special conditions #18-38. Jamie Bemis seconded. All so voted.

CERTIFICATE OF COMPLIANCE REQUEST:

JACKSON – 45 Old Bedford Road – DEP File #137-836

Staff presented a request from Lori Jackson for a Certificate of Compliance for 45 Old Bedford Road, DEP File #137-836. Montgomery Lovejoy moved to issue a Certificate of Compliance for 45 Old Bedford Road. Alexander Easterday seconded. All so voted.

OTHER BUSINESS:

Warrant Articles:

Article 41 – Improvement and Maintenance of Off Harrington Avenue – by Petition

The Article proposes the Town accept Off Harrington Road as a Town way and perform repairs. Michael Lawson, Finance Committee, contacted Delia Kaye about this Article. The Article is similar to a Private Way in the White Pond Watershed: Temporary Repairs Bylaw that was accepted by the Town. The White Pond bylaw proposed repairs to redirect drainage discharges that entered White Pond to improve the water quality. The Commission asked if there were any ecological issues with the existing road.

Delia Kaye indicated she performed a quick site visit and no severe erosion issues from the road were apparent. There is a buffer of residential homes between the pond and the road.

Katie Holden noted that all abutters are not in agreement whether the road is paved or unpaved.

Kevin Dionne, 24 Off Harrington Avenue, expressed his belief that paving the road is an underlying concern of this article. He indicated that the issues here are not the same as White Pond, and he is opposed to the Article.

Delia Kaye indicated that the road itself is not the problem. Paving the road will not alleviate any potential runoff, and may exacerbate the problem because of increased runoff rates. Property owners

should continue to provide, and enhance, a buffer zone to intercept any potential runoff into the Mill Pond.

The Commission will visit the area.

Article 30 – Playing Fields Funding

Delia Kaye discussed potential changes to the Warrant Article consisting of removing Walden Street and the Wastewater Treatment Plant from the language. Warrant Article #32 is contingent upon the passing of Warrant Article #30 which will focus on the high school.

The Commission supports the Article and will write a position similar to their letter for the April 4th meeting.

Article 31 – Conservation Restriction (CR) on Walden Woods - school land

The Commission discussed opposition to this Article due to the playing field project.

Article 35 – Hugh Cargill Farm Management Plan

A Conservation Restriction (CR) was voted for at the 2001 Town Meeting. A CR was held by Concord Public Works around the well (Zone 1). A meeting is scheduled on March 30, 2007. Monty Lovejoy and Steve Verrill will attend the meeting to discuss further.

Concord Clean Up

The annual town wide clean up is April 2-April 8.

Musketaquid Earth Day Celebration

The Commission agreed to host a table at this event on April 28, 2007 from 10-2 p.m. at Emerson Umbrella.

506 Old Bedford Road – ZBA Application

Delia Kaye stated that Marcia Rasmussen, Director of DPLM, will be looking for staff to provide preliminary comments to her by April 2nd. She will take into account all staff comments and provide them in one document for Commission review.

Old Calf Pasture Violation

After being alerted by CPW of tree removal at the Old Calf Pasture, DNR staff visited 181 Lowell Road and observed approximately 50 stumps that appear to be primarily on Town land, and some on the 181 Lowell Road property. A violation letter was issued to Sandra Folk for illegal work in wetlands and Town land. The draft language of the Restoration Plan will be forwarded to the Town Manager, who has indicated strong support of a full restoration. Delia Kaye mentioned Ms. Folk will need to permanently delineate property line, such as with a stone wall. Ms. Folk will also have to submit an application to NHESP.

Jamie Bemis insisted that Ms. Folk remove the tree stumps as this is a safety issue. She also advised the Commission Members that this matter could in fact, be treated as a criminal matter. Jamie Bemis also thought it would be a good idea to put an article in the local paper.

50 Garfield Road – Invasive Special Removal

This project was initially approved in 2005. The new property owner proposes removing invasives and replanting throughout the property and installing a catch basin to improve drainage. The owner wants to do the work now to open up the property before construction of the house. The Commission supported the proposed work and requested that staff request an Amended Order from the Applicant for additional work.

525 Lexington Road (Gowings Swamp)

After receiving a phone call about potential work within Commission jurisdiction, DNR staff performed a site visit and discovered several test pits at 525 Lexington Road. This is an approximate 13-acre parcel that includes a portion of Gowings Swamp. The property owner also owns an adjacent parcel on Independence Way. Sudbury Valley Trustees and the Town own the remaining portions of Gowings Swamp. DNR staff presented concern of a potential housing development close to two vernal pools, including Gowings Swamp. Jamie Bemis mentioned that we should have money on hand to act upon properties going up for immediate sale. Monty Lovejoy gave Wright Farm as another example. Katie Holden has spoken with Stamski and McNary to advise them that the Town may be interested if this property goes up for sale.

Village Overlay District

Meeting sponsored by the Concord Planning Board on March 28, 2007 at 6:30 p.m. at the Harvey Wheeler Center.

Attendance Policy

The Commission discussed concern for the lack of quorum in recent months. This creates additional work for DNR staff, delays projects, and poses potential financial concerns for applicants.

Concord Park – Conservation Restriction

The Division of Natural Resources issued an approval for construction of this facility in 2000 which stipulated a 6-acre \pm CR along the Assabet River. This CR was never approved by the NRC or the state. The Applicant has requested a Certificate of Compliance for the project, which cannot be issued until the CR is approved. Delia Kaye suggested the Conservation Restriction Stewardship Committee review the draft CR and make a recommendation to the Commission.

Big Night

DNR staff will be coordinating a group of volunteers to monitor the Bruce Freeman Rail Trail for vernal pool species migratory habitat.

Wetlands Bylaw

The Commission discussed holding a Community Meeting to get feedback about a wetland bylaw. Jamie Bemis suggested having another working meeting to discuss the Bylaw and suggested May 11th.

Questing

DNR will be hosting a Questing workshop of June 25 & 26 with Musketaquid Art & Environment Program. Katie Holden is working on obtaining funding for the workshop.

The meeting adjourned at 10:20 p.m.

Respectfully submitted,

Delia Kaye, Natural Resources Administrator

Katherine Holden, Natural Resources Assistant Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant